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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,600	12/17/1999	ALEX I. EYDELBERG	INTL-0304-US	9073

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EXAMINER
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HA, LEYNNA A

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/465,600

Applicant(s)

EYDELBERG, ALEX I.

Examiner

LEYNNA T. HA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 1-30 is/are ~~withdrawn from consideration~~. *Canceled*
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Applicant have cancelled the originally filed claims 1-30.

Applicant have added new claims 31-56.

2. Claims 31-56 are rejected under 35 U.S.C. 103(a).

This is a Final rejection necessitated by new grounds of rejection.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. ***Claims 31-56 are rejected under 35 U.S.C. 103(a) as being unpatentable by Rakavy, Et. Al. (US 6,324,644) in view of Anderson (US 6,161,177) and in further view of Godse (US 6,202,091)***

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**As per claim 1:**

Rakavy teach having more than one BIOS with the ability to detect and load the network BIOS [see col.6, lines 35-60]. However, Rakavy fails to discuss loading either a first module of the basic input/output system or a second module of the basic input/output system based on a system state.

Anderson teaches a computer system that includes a memory device containing a BIOS program and BIOS identifying data specifying the CPU corresponding to the BIOS program. Further, Anderson teaches determining if the correct BIOS has been selected for execution by the CPU (col.4, lines 41-43 and col.5, lines 22-30). It would have been obvious of the ordinary skill in the art to combine the teachings of Rakavy with Anderson of being able to selectively load the first or second BIOS is to ensure that the proper BIOS program is executed in computer systems having more than one BIOS program retained in a storage device and this will add optimum performance (col.2, lines 45-63).

However, the Rakavy/Anderson combination fails to include selectively load the bios based on the system state indicating a connection to the network.

Godse teach a pointer that can be selectively set to point toward a local site or a remote site that allows initiating the boot-up procedure locally while loading some software component such as a network wherein the component that are selected to load (col.2, lines 40-49 and

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col.4, lines 30-53). It would have been obvious of the ordinary skill in the art to combine the teachings of the Rakavy/Anderson combination with Godse of being able to selectively load the BIOS based on the system state indicating a connection to a network because this avoids the necessity of changing the boot-up program at each node of the network (col.2, lines 49-50).]

**As per claim 32:**

Rakavy, et al. discloses a method of claim 1 further comprising:

storing said first module of a basic input/output system on a first storage device prior to execution; [see col.6, lines 45-56]

storing said second module of the basic input/output system on a second storage device prior to execution; and [see col.5, lines 47-51]

enabling said second module to be executed conditionally depending on a state. [see col.7, lines 13-26 and col.8, lines 7-29]

**As per claim 33: see FIGs.1 and 7;** discussing storing said second module includes storing said second module in a storage associated with a network server accessible to said system over the network.

**As per claim 34: see col.9, lines 23- 43;** discussing detecting whether or not the system is connected to the network during a boot sequence.

**As per claim 35: see col.7, lines 25-33 and col.8, lines 1-6;** discusses dynamically linking to one of a plurality of modules, and exporting and offset to an entry point in one module to another module.

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**As per claim 36: see col. 8, lines 7-29;** discusses storing a secondary entry point in a module to locate a function within the module.

**As per claim 37: see col.15, lines 26-43 and FIG.3A;** discusses developing a segment address for said second module at run time.

**As per claim 38: see col.9, lines 43-56 and col.13, lines 60-63;** discusses providing different levels of authentication based upon the system state.

**As per claim 39: see col.5, lines 40-55 and col.9, lines 43-56;** discusses authenticating a user according to one of multiple levels based upon the system state, and obtaining a key from a protected storage if the user is authenticated.

**As per claim 40:**

Rakavy teach having more than one BIOS with the ability to detect and load the network BIOS [see col.6, lines 35-60]. However, Rakavy fails to discuss loading either a first module of the basic input/output system or a second module of the basic input/output system based on a system state.

Anderson teaches a computer system that includes a memory device containing a BIOS program and BIOS identifying data specifying the CPU corresponding to the BIOS program. Further, Anderson teaches determining if the correct BIOS has been selected for execution by the CPU (col.4, lines 41-43 and col.5, lines 22-30). It would have been obvious of the ordinary skill in the art to combine the teachings of

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Rakavy with Anderson of being able to selectively load the first or second BIOS is to ensure that the proper BIOS program is executed in computer systems having more than one BIOS program retained in a storage device and this will add optimum performance (col.2, lines 45-63).

However, the Rakavy/Anderson combination fails to include selectively load the bios based on the system state indicating a connection to the network.

Godse teach a pointer that can be selectively set to point toward a local site or a remote site that allows initiating the boot-up procedure locally while loading some software component such as a network wherein the component that are selected to load (col.2, lines 40-49 and col.4, lines 30-53). It would have been obvious of the ordinary skill in the art to combine the teachings of the Rakavy/Anderson combination with Godse of being able to selectively load the BIOS based on the system state indicating a connection to a network because this avoids the necessity of changing the boot-up program at each node of the network (col.2, lines 49-50).

**As per claim 41:**

Rakavy, et al. discloses a method of claim 1 further comprising:

access said first module of a basic input/output system on a first storage device; [see col.6, lines 45-56]

access said second module of the basic input/output system on a second storage device; and [see col.5, lines 47-51]

execute said second module conditionally depending on a state.

**[see col.7, lines 13-26 and col.8, lines 7-29]**

**As per claim 42: see FIGs. 7 and col.6, lines 35-38;** discussing discusses storing instructions that cause a system to access said second module in a storage associated with a network server accessible to said system over the network.

**As per claim 43: see col.7, lines 13-26 and col.8, lines 7-29;** discusses storing instructions that cause a system to execute said second module conditionally depending on whether or not the system is coupled to the network.

**As per claim 44: see col.13, line 40 thru col.14, line 49;** discusses storing instructions that cause a system to selectively access either a first module setting forth a first authentication protocol in the first storage device or a second module setting forth a second authentication protocol in the second storage device based on the system state.

**As per claim 45: see col.5, lines 40-55 and col.9, lines 43-56;** discusses storing instructions that cause a system to obtain a key from a protected storage if a user is authenticated.

**As per claim 46: see col.7, lines 25-33 and col.8, lines 1-6;** discusses storing instructions that cause a system to dynamically link said first and second modules.



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**As per claim 47: see col.9, lines 23- 43;** discusses storing instructions that cause a system to detect whether the system is connected to the network during a boot sequence.

**As per claim 48: see col.7, lines 25-33 and col.8, lines 1-6;** discusses storing instructions that cause a system to dynamically link to one of a plurality of modules using offsets to entry points in said modules.

**As per claim 49: see col.7, lines 25-33 and col.8, lines 1-6;** discusses storing instructions that cause a system to store a secondary entry point in a module to locate a function within the module.

**As per claim 50: col.15, lines 26-43 and FIG.3A;** discusses storing instructions that cause a system to develop a segment address for said second module at run time.

**As per claim 51:**

Rakavy discloses system comprising:

a first basic input/output system module executable by a processor; and [see col.5, lines 46-48 and col.6, lines 24-63]

a second basic input/output system module executable by said processor; and [see col.12, line 56 thru col.13, line 2 and col.15, lines 3-13]

However, Rakavy fails to discuss loading either a first module of the basic input/output system or a second module of the basic input/output system based on a system state.

Anderson teaches a computer system that includes a memory device containing a BIOS program and BIOS identifying data specifying the CPU corresponding to the BIOS program. Further, Anderson teaches determining if the correct BIOS has been selected for execution by the CPU (col.4, lines 41-43 and col.5, lines 22-30). It would have been obvious of the ordinary skill in the art to combine the teachings of Rakavy with Anderson of being able to selectively load the first or second BIOS is to ensure that the proper BIOS program is executed in computer systems having more than one BIOS program retained in a storage device and this will add optimum performance (col.2, lines 45-63).

However, the Rakavy/Anderson combination fails to include selectively load the bios based on the system state indicating a connection to the network.

Godse teach a pointer that can be selectively set to point toward a local site or a remote site that allows initiating the boot-up procedure locally while loading some software component such as a network wherein the component that are selected to load (col.2, lines 40-49 and col.4, lines 30-53). It would have been obvious of the ordinary skill in the art to combine the teachings of the Rakavy/Anderson combination with Godse of being able to selectively load the BIOS based on the system state indicating a connection to a network because this avoids the necessity of changing the boot-up program at each node of the network (col.2, lines 49-50).

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**As per claim 52: see col.5, lines 35-42;** discusses a detector to detect the system state to determine whether said processor is to execute said second module.

**As per claim 53: see col.5, lines 47-51;** discusses a first storage for said first module and a second storage for said second module, said second storage being coupled to said system over the network.

**As per claim 54: see col.9, lines 2-42;** discusses detector to detect information about network access.

**As per claim 55: see col.9, lines 43-62 and col.13, lines 26-63;** discusses first and second modules include different authentication protocols.

**As per claim 56: see col.13, line 40 thru col.14, line 49;** discusses processor to execute said second basic input/output system module on said second storage to implement a network authentication protocol.

***Conclusion***

4. Applicant's arguments with respect to claims 31-56 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEYNNA T. HA whose telephone number is (571) 272-3851. The examiner can normally be reached on Monday - Thursday (7:00 - 5:00PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lha

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